

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

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|--------------------------|---|----------------------|
| UNITED STATES OF AMERICA |) | |
| |) | Case No. 1:16-mj-164 |
| v. |) | |
| |) | Judge Steger |
| AVEUS BAILEY |) | |

MEMORANDUM AND ORDER

AVEUS BAILEY (“Defendant”) came before the Court for a Preliminary Hearing, pursuant to Fed. R. Crim. P. 5.1, on July 19, 2016, after being charged in a Criminal Complaint [Doc. 1]. Defendant was present at the hearing, along with his attorney, Mitchell Bryant. The Government was represented by AUSA T.C. MaKaya.

As an initial matter, Attorney Bryant indicated that Defendant wanted to waive a Detention Hearing. The Court granted that request and proceeded to the Preliminary Hearing.

AUSA T.C. MaKaya called DEA Task Force Officer James C. Hixson. Officer Hixson was sworn in. On direct examination, Officer Hixson testified to the facts contained in the Affidavit Submitted in Support of Criminal Complaint [Doc. 1]. Attorney Bryant then cross-examined Officer Hixson.

Based on the Preliminary Hearing, the Court makes the following findings which are relevant to a finding of probable cause with respect to the charge made in the Criminal Complaint:

1. The testimony of Officer James C. Hixson is credible and reliable.
2. Field Training Officer Piazza and other Police Officers went to a residence at 5005 18th Avenue in Chattanooga, Tennessee, to serve a warrant on Defendant Aveus Bailey. Upon arrival, a resident of the house, Ponshala Fluellen, consented to allow the Police to search the residence.
3. Upon entering the residence, Police observed a handgun in plain view in the kitchen and a bag of what appeared to be marijuana in the living room.
4. Defendant Aveus Bailey was found in a back bedroom hiding underneath some clothes. In that same bedroom where Defendant was hiding, Police found an SKS rifle.
5. Defendant was given his Miranda rights. Defendant admitted that the handgun

which the Police had found in the kitchen belonged to him.

6. The Police also found baggies of what appeared to be cocaine (which was later identified by Officer Hixson as heroin), suspected marijuana, and \$647.00 cash in Ms. Fluellen's purse. After Ms. Fluellen was given her Miranda rights, she indicated to the Police that Defendant had placed the drugs and cash in her purse. Defendant advised Officer Piazza that the drugs did not belong to Ms. Fluellen.
7. Defendant is a convicted felon.
8. The firearms found at the residence were manufactured outside of the state of Tennessee and traveled in interstate commerce.

Based upon these findings by the Court, it is hereby ORDERED that sufficient credible and reliable evidence was offered by the government to establish that **there is probable cause** to believe that the offense alleged in the Criminal Complaint entitled *United States v. Aveus Bailey*, Case No. 1:16-mj-164, specifically that Defendant has violated 18 U.S.C. § 922(g)(1), that is, possession of a firearm by a convicted felon, has been committed and that Defendant Aveus Bailey has committed such offense. Accordingly, Defendant Aveus Bailey will be held to answer in District Court.

SO ORDERED.

ENTER.

s/Christopher H. Steger
UNITED STATES MAGISTRATE JUDGE